

Task Force on Wildland-Urban Interface Standards

Minutes from Meeting May 19, 2008

Helena

Present:

Harold Blattie	Montana Association of Counties
Pat Cross	Department of Natural Resources and Conservation
Tim Davis	Montana Smart Growth Coalition
Debra Foley	Montana Forest Owners Association
Bob Fry	Disaster and Emergency Services
Jerry Grebenc	Department of Commerce
David Greer	Plum Creek Lumber
Jim Lehner	Plum Creek Lumber
Allen Lorenz	State Fire Marshal
Pat McKelvey	Fire Safe Montana / Lewis & Clark County
Glenn Oppel	Montana Association of Realtors
Mark Phares	Department of Natural Resources and Conservation

Facilitator: John Moore

The meeting convened at 10:04 a.m.

By consensus, the group reached these decisions:

1. Agreed to include an introductory section that explains similarities and differences between “survivable” and “defensible,” while providing information on property owners’ responsibilities.
2. Agreed to gather and review information on best practices for roads and streets in WUI areas.
3. Designed the Table of Contents for WUI Standards and Best Practices as an editing guide and as a way to make the document easy to use.

Introduction

Preface

Common WUI problems

Development of these guidelines

Purpose

“roadmap” to this document – how it’s organized, how to use it
reference to other jurisdictions, such as DLI and construction standards
defensible vs. survivable – what they mean
individual vs. government responsibilities

Definitions

Section 1: Property Owner Responsibilities

Homeowner Code of Responsibility

Recommendations from Subdivision and Zoning sections – written in a clear “voice,” without legalese, for property owners to understand

Section 2: Issues for Subdivision Regulation
(use existing headings for table of contents)

Section 3: Issues for Zoning
(use existing headings for table of contents)

Section 4: Financial Assistance
(this section will refer to ARM and DNRC's criteria for making loans and grants to manage property)

Appendices
property evaluation standards
source materials
printed documents
web sites
participants in developing these WUI Standards
Senate Bill 51

4. Assigned tasks, responsible parties, and deadlines for revisions to the document.

<u>Activity</u> minutes	<u>Responsible</u> John Moore	<u>Deadline</u> 5/23/08
- gather information on best practices for roads and streets - send to Mark Phares	Tim Davis	6/6/08
- compare definitions - combine sections into one document - send to Mark Phares	Jerry Grebenc	5/23/08
- rework Introduction section - add new information on survivable and defensible	Pat Cross	4/30/08
- do first edit of combined document - distribute to task force for review	Mark Phares	5/29/08
- review combined document - send comments and suggested edits to Mark Phares	Task Force Members	6/6/08

5. Scheduled the task force's next meeting:
Monday, June 23, 2008
10 a.m.
Yellowstone Room, Metcalf Building
Helena
agenda items

- review and final comments on WUI Standards and Best Practices
- decide on the length of time for public comment on proposed adoption by reference, with an eye to these target dates:
 - publish proposal notice for rules 7/30/08
 - adopt guidelines as ARM incorporated by reference 10/1/08
- decide on the public hearings during rule-making, including number of hearings, possible dates, locations

The meeting adjourned at 12:50 p.m.

Discussion Summary – these are points brought up during the meeting

Survivable and Defensible

- “survivable” vs. “defensible” – survivable too definite; defensible is a more variable term
- *survivable* gets people into the mindset of their responsibility: what would happen if no one was there to help defend the property?
- *survivable* goes more to construction standards
- why not put both terms in? they’re both common terms, and we have the goal of achieving *survivable*, as defined
- it’s possible to go with both terms, recognizing there are no guarantees
- it’s the property owner’s responsibility, without expecting the fire department to come to the rescue
- *defensible* presumes the fire department will help
- SB51 says *defensible*
- we can include *survivable* within the definition of *defensible*
- can this discussion be laid out in the purpose section of the document?
- we can incorporate and define both terms, with emphasis on property owner’s responsibility
- Pat will draft an introductory section on the similarities and differences between the terms and include information on property owner’s responsibility
- also on page 4 – “recommend” that local governments adopt these standards?
- these are guidelines; DNRC can’t mandate standards for anyone other than DNRC

Road and street standards

- we haven’t yet put in information on road and street standards from the Model Subdivision Regulations
- the information has gone through e-mail, just not yet incorporated into the WUI document
- are we planning to incorporate definitions from Model Subdivision Regulations?
- the important thing is that they match, so we’re not dealing with multiple definitions – with many sources feeding into the WUI Standards, it’s challenging to match up definitions
- are there any significant differences?

- Mark will compare the two sets and point out any differences for task-force members to comment on
- with definitions, it's also important not to leave anything out
- we don't want the WUI Standards to seem to be aimed only at subdivision issues
- we only want agreement between Model Subdivision Regulations and WUI Standards in areas related to fire protection
- any suggested changes to Model Subdivision Regulations' definitions are welcome
- dealing with definitions, you can build four lists:
 - 1) those that deal with fire protection only
 - 2) those that deal with fire and with subdivision that match up
 - 3) those that deal with fire and with subdivision that don't match up
 - 4) those that deal with subdivision only
- one thing to recognized about Model Subdivision Regulations road and street standards: the group that put together the document knew that they didn't know much about roads and streets, so they carried over a lot of old language from prior versions; they recognize a need for revision
- counties are working on revising standards
- some of the larger counties have their own road standards that might even conflict with Model Subdivision Regulations' standards, such as right-of-way clearance and road widths
- yes, but our goal for the WUI Standards is best practices; we need to focus on where people get killed – the roads – focus on what's the best guideline
- WUI Standards can refer to where road standards are and describe their importance
- we definitely need a standard regarding clear-cutting rights of way
- how do you get that into WUI Standards?
- also, keep in mind that Model Subdivision Regulations focus on design, while much of our concern is management and maintenance
- at least we need to make sure there's agreement between the two sets of standards
- there's a difference in what we can regulate and what we can recommend
- we can make sure there's no conflict between the two sets and refer to Model Subdivision Regulations' road and street standards
- there's no need to reinvent the wheel here – we want to recommend best practices; there's a ton of information on best practices
- Tim will gather information on best practices for roads and submit it to task force members
- how do we move from “providing” information to implementing standards, such as managing vegetation?
- it's up to local government; for smaller counties, we should have a list of qualified professionals they can call on
- then counties need to require implementation, with performance bonds attached
- after the initial implementation, then we can get into managing properties

- with regard to these WUI Standards, we need a clear format that's easy for people to follow; if you want the average property owner to pay attention, make it easy to find the information

Organizing content areas

- based on the last meeting, we've taken the existing content and split it into four pieces:
 - 1) issues that need to be implemented through zoning
 - 2) issues covered by DLI's standards on construction
 - 3) issues on best practices and standards for DNRC to communicate to local jurisdictions
 - 4) homeowner's code of responsibility
- that makes sense, but one of the issues is the low likelihood that counties will zone on these issues
- the WUI Standards should try to empower the homeowners individually to take action
- we know that covenants and homeowners' associations don't work well, and we don't want to make counties a party to covenants
- neither do we want to give the local fire chief veto power over subdivision plans; recommendations to the governing body would be fine
- but a huge part of the problem already exists – having standards for new development won't address existing development
- should the WUI Standards describe how zoning issues are part of the overall picture? as a model in the ARM, we might have a lot of local jurisdictions adopting these standards – they should be thorough
- the ultimate enforcers would be county attorneys – they won't consider covenant issues to be important
- plus, there are liability issues in making the county a party to a covenant
- but really, we're looking at a paradigm shift – now, people want this stuff; in Blue Sky Heights and Forest Park, they think it looks better with vegetation control and fuel management
- it's an educational issue – in practice, this stuff works
- there are other issues with zoning – typically, existing uses are grandfathered in; zoning only affects new development
- and there are enforcement issues
- in reality, enforcement often comes through civil action in the courts
- the four-part option with WUI Standards gives options to counties
- does that mean duplicating content areas among the four parts, like road standards?
- they'll have to match up; maybe we could cross-reference duplicate areas
- we want to ensure that the format makes it clear to everyone what applies to them, with proper flow and language
- then the four-part layout makes sense – a homeowner can flip right to that section; we might have some duplication of content among sections
- still, zoning doesn't do anything for existing use

- what's the remedy, then?
- that's the importance of the "purpose" section – to make the flow clear
- there's one part that's missing from all of this – SIDs and RIDs
- could these be used to manage fire standards on existing development
- we'd need to look at it; the language is pretty broad
- it might be an issue for the legislature to address
- well, as the interim fire committee tours the state, you'll hear a lot of legislators expressing concern about implement of WUI Standards on existing development
- anyway, it sounds like we're getting into a lot of editing – DNRC has a deadline of October 1 this year
- in fact, we want these WUI Standards ready to go out for comment by July 30
- should the homeowners code go into the introduction
- SB51 refers to "best practices" – we should stick with consistent terminology
- with those four parts, we can ignore #2; that's DLI's area
- we can focus on #1, #3, and #4 – with #4 into the introduction
- we may need more pieces, such as the International WUI Code
- the introduction is growing rapidly
- isn't subdivision stuff outside our mandate?
- we need to connect the dots for the property owners – does that mean cut and paste? cross-references?
- all of Bruce's material is spread among these sections
- let's build the Table of Contents

Assigning Tasks and Deadlines

- build one document to review
- Tim will work on best practices for roads and streets
- Jerry will compare definitions and combine content areas; send it to Mark by 5/23
- Pat will work on the Purpose section; complete it by 5/29
- Mark will get the draft out to participants by 5/29
- participants need to get comments and edits to Mark by June 6

Next Meeting

- it'll be the last look before we send it to the public
- we'll want to decide on the length of time the public has for commenting
- we'll also need to decide on public hearings as part of the rule-making process
- for point of clarification, since this is an announced public meeting, we can't change the agenda at the meeting, and we need to allow public comment (if there are members of the public who wish to comment)